

will provide the Commission with a much better basis for comparison of prevailing market prices.

3. Streamlining Alternatives

A. General Alternatives

The Utah League supports the Commission's attempt to streamline the administrative burdens on subscribers, franchising authorities and the Commission, but does not believe the Commission should be so concerned with streamlining the administrative burdens on cable operators. The Commission has already streamlined the administrative burdens on cable operators through establishment of the benchmark and price cap formulations. Thus, if a cable operator wants to reduce its administrative burden, it need only adhere to the benchmark. A cable operator which chooses instead to utilize the cost-of-service formulation, will have increased the administrative burden for everyone. Unless the greater administrative burden is on the operator, eventually the operator's deeper pockets will erode the regulator's resources.

If the Commission still chooses to adopt a streamline alternative under the cost-of-service approach, the Utah League opposes the use of 1986 cable rates as a reasonable point of comparison. The Commission should not rely on those rates, even adjusting for inflation and productivity offset. Cable operators

had a clear monopoly in 1986 and the rates from that year would not demonstrate a reasonable subscriber rate. The Commission must use another method to establish initial rates, perhaps similar to the benchmark. However, the Utah League believes it might be worthwhile to compare the prices cable operators paid for programming in 1986 and what they now pay for programming to demonstrate the sizable market power enjoyed by most programmers today.

The Utah League does not support the second potential alternative to cost-of-service proceedings that would permit cable operators to document key cost factors, financial characteristics, or other combinations of factors. NPRM at ¶ 72. No cable system is exactly "average" in every cost category -- every cable operator has some costs above average and some below. To allow such "add-ons" is to allow every cable operator to "cherry-pick", disclosing its higher-than-average costs while hiding its below-average costs. If a cable operator has unusual factors to justify rates that are higher than the benchmark, the operator should make a full cost-of-service showing.

In addition, the Utah League opposes the alternative of utilizing an average system basis for simplified cost-of-service showings. Cable operators could use this method to obtain higher than benchmark rates without the companion higher than benchmark costs. A cable operator who wants to charge subscribers higher

than benchmark rates should justify its rates though a detailed cost-of-service showing.

However, the Utah League might support the Commission's establishing an abbreviated cost-of-service showing for significant prospective capital expenditures for improving quality of service to subscribers or for providing additional services to subscribers. NPRM at ¶ 75. The Utah League believes this proposal should only be utilized if the cable operator is seeking approval for rates that will not be effective until the system upgrade is completed and operational. The cable operator should not be able to increase its rates until the improvement is providing a benefit to subscribers. At the point that the upgrade is operational, the cost could then be added to the rate permitted under the benchmark to the extent costs could not be recovered under that approach.

B. Equipment

The Utah League supports the Commission's proposal to ascertain the average cost of equipment leased to and used by subscribers to receive basic service and to permit operators to charge those rates. NPRM at ¶ 79. This proposal will greatly reduce the administrative burden on the regulating entities and cable operators.

4. Cost Allocation Requirements for External Costs

The Utah League supports the Commission's proposal to permit or require some categories of external costs to be aggregated or averaged at the company level and then allocated to the franchise level in tiers in accordance with cost accounting requirements. NPRM at ¶ 86. In this regard, the cost accounting and allocation requirements discussed above should be applicable to external costs thereby simplifying the burden on regulators. However, the Commission should be sure that adequately detailed information is requested in order to determine the average or aggregated costs.

5. Collection of Information

The Utah League encourages the Commission to request as much detailed information as possible from a cable operator justifying cost-of-service rates. NPRM at ¶ 87. In this regard, the Utah League support the Commission's adoption of the form attached as Exhibit B which requires extensive information to be filed with the Commission by individual cable operators annually. The survey alternative, also proposed by the Commission, is inadequate. NPRM at ¶ 87. While a survey is adequate for collecting general information, it is inadequate for collecting the kind of detailed information required under regulated cost-of-service showings. The form attached at Appendix B is one that the Municipalities consider appropriate in the circumstances.

CONCLUSION

In summary, the Utah League believes that the cost-of-service mechanism for rates above the benchmark should only be used by cable operators in extraordinary circumstances. In those extraordinary circumstances, a cable operator must provide detailed justification for its cost-of-service rates. In all other cases, the cable operator should adhere to the benchmark and price cap approach to rates.

WHEREFORE, for the foregoing reasons, the Utah League advises the Commission to allow cost-of-service showings by cable operators only in certain extraordinary circumstances and under strict regulatory guidelines.

Respectfully submitted,

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Dated: August 25, 1993

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